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September 11, 2024

Via ECF

The Honorable Katherine Polk Failla
United States District Court for the
Southern District of New York
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: C.O. v. N.Y.C. Dep't of Educ., et al., No. 24 CV 2584 (KPF)

Dear Judge Failla:

I am an Assistant Corporation Counsel in the office of the Acting Corporation Counsel of the City of New York, Muriel Goode-Trufant, counsel for the Defendants in the above-referenced action. I write to respectfully request a further extension of Defendants' time to respond to the Complaint to October 28, 2024, and a concomitant adjournment of the initial pretrial conference in this action to December 2, 2024.

This action is brought under the fee-shifting provision of the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1415(i)(3), and seeks costs and attorneys' fees accrued in connection with an underlying administrative proceeding. As the Court will recall, on April 29, 2024, and July 28, 2024, Defendants previously made similar applications in anticipation of Plaintiffs' counsel providing timesheets and other documentation necessary to reach a settlement in this action concerning attorneys' fees in an effort to avoid judicial intervention.

Although Defendants' counsel reached out concerning the provision of these documents in both June and July, and although Plaintiffs' counsel previously indicated in July that the timesheets would be transmitted shortly, I only received Plaintiffs' counsel's timesheets today. Defendants' response to the Complaint is also due today. Yet my office will need additional time to review Plaintiffs' counsel's timesheets and, if appropriate, make a recommendation to the Comptroller, and negotiate thereafter in order to avoid unnecessary judicial intervention. As such, Defendants respectfully request additional time for this process to occur.

This is Defendants' third application for an extension or adjournment of these dates. The first was granted on April 30, 2024, (ECF No. 7), and the second on July 29, 2024, (ECF No. 10). Because of the late timing of this application, I was not able to seek Plaintiffs' counsel's consent in advance of its making. Defendants' present time to respond to the Complaint is today, September 11, 2024, and the initial pretrial conference is scheduled for October 15, 2024. The requested extension would move Defendants' time to answer to October 28, 2024, and a concomitant adjournment of the initial pretrial conference December 2, 2024. This is an approximately 45-day extension/adjournment, while accounting for weekends and the Thanksgiving holiday period. I am also happy to confer with the Court's deputy on alternative dates, if the requested adjournment is not amenable to the Court.

I thank the Court for its consideration of this application.

Respectfully yours,

/s/ David S. Thayer

David S. Thayer
Assistant Corporation Counsel

cc: ***Via ECF***

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Application GRANTED. Defendants' deadline to answer, move, or otherwise respond to the Complaint is hereby ADJOURNED *nunc pro tunc* to **October 28, 2024**.

The initial pretrial conference scheduled for October 15, 2024, is hereby ADJOURNED to **December 10, 2024**, at **3:30 p.m.** The dial-in information remains the same and is as follows: At the scheduled date and time, the parties are to call (888) 363-4749 and enter access code 5123533.

The Clerk of Court is directed to terminate the pending motion at docket entry 11.

Date: September 12, 2024 SO ORDERED.
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE